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case.

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**IN THE
COURT OF APPEALS OF INDIANA**

BRIAN LEE,)	
)	
Appellant-Defendant,)	
)	
vs.)	No. 03A05-0702-CR-93
)	
STATE OF INDIANA,)	
)	
Appellee-Plaintiff.)	

APPEAL FROM THE BARTHOLOMEW SUPERIOR COURT
The Honorable Roderick McGillivray, Judge
Cause No. 03D02-0402-CM-290
03D02-0503-CM-308

AUGUST 9, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

ROBERTSON, Senior Judge

STATEMENT OF THE CASE

Defendant-Appellant Brian Lee (“Lee”) is appealing from the revocation of his probation. We affirm.

ISSUES

Lee states the issues as:

1. Did the Trial Court abuse its discretion in determining that Lee’s violations of probation warranted a full revocation?
2. Did the Trial Court violate Lee’s due process rights by not issuing a detailed statement of what factors it was relying upon to revoke his probation?

FACTS

For the purposes of the issues raised, the facts reveal that Lee, pursuant to a plea agreement, pled guilty to two Class A misdemeanors. He was sentenced to a year on each misdemeanor, to be served consecutively, in the Bartholomew County Jail and was placed on probation. He later pointed a gun at someone which prompted the filing of a petition to revoke probation. His probation was revoked and he was sentenced to a full year on each of the two Class A misdemeanors, to be served consecutively.

DISCUSSION AND DECISION

Issue 1.

A probation revocation hearing is in the nature of a civil proceeding and, therefore, a violation need only be proven by a preponderance of the evidence. *Washington v. State*, 758 N.E.2d 1014, 1017 (Ind. Ct. App. 2001). A trial court may revoke a person’s probation upon evidence of the violation of any single term of

probation. *Id.* This court will neither reweigh the evidence nor judge the credibility of the witnesses. *Id.* Rather, we look to the evidence most favorable to the State. *Id.* If there is substantial evidence of probative value to support the trial court's decision that the probationer is guilty of a violation, revocation is appropriate. *Id.* A probation revocation hearing must be a narrow inquiry with flexible procedures that allow a court to exercise its inherent power to enforce obedience to its lawful orders. *Brabandt v. State*, 797 N.E.2d 855, 860 (Ind. Ct. App. 2003). The decision whether to revoke probation is a matter within the sound discretion of the trial court. *Id.*

At the sentencing hearing Lee testified in his own behalf and related, among other things, that the act which caused his probation revocation was done in self defense; that during his previous incarcerations he twice attempted suicide; and, that he has mental problems. His Bartholomew County Probation Officer also testified about Lee's criminal history which involved problems in the adjoining counties of Jennings and Jackson, and that a convicted felon should not be in possession of a gun.

To constitute an abuse of discretion, the trial court's decision must be one which is clearly against the logic and effect of the facts and circumstances before the court. *Stone v. State*, 536 N.E.2d 534, 538 (Ind. Ct. App. 1989). An abuse of discretion is an erroneous conclusion and judgment, one clearly against the logic and effect of the facts or the reasonable, probable deductions to be drawn therefrom. *Id.* When an act is committed to a trial court's discretion, the courts on appeal will reverse only upon a manifest abuse of discretion and denial to the complaining party of a fair trial. *Id.*

We cannot say that, given the facts and circumstances before the court, especially the probation officer's testimony, an abuse of discretion has occurred.

Issue 2.

Lee next argues that his due process rights were violated when the trial court did not issue a detailed statement of what factors it relied upon when imposing a full revocation of the suspended sentence. A probation revocation defendant's due process rights are set forth in Ind. Code §35-38-2-3. A "detailed" statement of due process rights is not included in that statute. *Sanders v. State*, 825 N.E.2d 952, 955 (Ind. Ct. App. 2005). In fact, where a probationer admits to the violations, as occurred in this case, the procedural due process safeguards and an evidentiary hearing are not necessary. *Id.* The violation of due process rights that Lee seeks to have remedied are not implicated here.

CONCLUSION

The trial court did not abuse its discretion when revoking Lee's sentence. Lee's due process rights were not violated.

Judgment affirmed.

MAY, J., and CRONE, J., concur.